Public Services Commission of the
United States Virgin Islands

To: **Marlene H. Dortch**
Office of the Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Vice President – High Cost Division
Universal Service Administrative Company
700 12th Street, N.W. Suite 900
Washington DC 20005

RE: CC Docket 96-45, WC Docket 14-58 – Annual State Certification of Support for Eligible Telecommunications Carriers Pursuant to 47 C.F.R. § 54.314

Pursuant to the requirements of 47 C.F.R. § 54.314, the Virgin Islands Public Services Commission hereby certifies to the Federal Communications Commission and the Universal Service Administrative Company that Choice Communications, LLC, is eligible to receive federal high-cost support for the program years cited.

The Public Services Commission of the Virgin Islands certifies for Choice Communications, LLC, that all federal high-cost support provided to that carrier was used in the preceding calendar year (2015) and will be used in the coming calendar year (2017) only for the provision, maintenance , and upgrading of facilities and services for which the support is intended.

I am authorized to make this certification on behalf of the Public Services Commission of the Virgin Islands. This certification is for study area 649002 for the Territory of the United States Virgin Islands.

Dated this 27th day of September, 2016.

Andrew Rutnik
Vice-Chairman
Virgin Islands Public Services Commission
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August 25, 2016

Mr. Johann Clendenin
Chairman
Public Services Commission of the
United States Virgin Islands
P.O. Box 40
Charlotte Amalie, USVI 00804

Re: Federal USF Certification – Choice Communications, Docket 589

Dear Mr. Clendenin:

This letter presents GCG's analysis in connection with the annual certification from the Virgin Islands Public Services Commission ("PSC" or "Commission") that Choice Communications, LLC ("Choice") has complied with Section 254(e) of the federal Telecommunications Act of 1996 ("Federal Act") during calendar year 2015 and will comply in the upcoming calendar year, 2017. Choice receives monies from interstate universal service funds (USF) that are designated to support local services, build needed infrastructure and improve service quality.

Each year, the PSC is required under Section 54.314(a) of the FCC rules to certify to the Federal Communications Commission ("FCC") and Universal Service Administrative Company ("USAC") that USF support has been and will be used only for the purposes designated in the Federal Act. USF will be denied to any "Eligible Telecommunications Carrier" ("ETC") that is not certified by its state regulatory agency. If the Commission does not file the certification with the FCC and USAC by October 1, the ETC will be denied funds on a pro-rata basis for the period that the certification is delayed.[1] The certification is filed electronically with both the FCC and USAC.

Please note that states must certify that USF support was used only for the provision, maintenance and upgrading of the facilities and services for which the support is intended, BOTH for the most recent calendar year AND for the upcoming calendar year. This rule applies regardless of the high-cost or CAF program under which the support was provided.

[1] The FCC modified its rule regarding late filings in its Report and Order, *In the Matter of Connect America Fund, ETC Annual Reports and Certifications, et al,* WC Docket No. 10-90, et al, Released December 18, 2014, FCC 14-190. Under the current rules, there is a grace period of three days before funding is denied and a minimum seven day forfeiture. Previously, support was denied for each quarter the certification was delayed.

In order for the Commission to be comfortable making this certification, the Commission must rely on the recent performance by Choice and on the Commission's ongoing monitoring efforts. Our review was based primarily on performance during calendar year 2015 but was supplemented, where appropriate, by available data for year-to-date 2016.

Background

Until the end of 2011, USF high-cost support was provided on a per-line basis for each working telephone served by a Competitive Eligible Telecommunications Carrier ("CETC") like Choice. The amount of support per line was based on the per-line support provided to the incumbent local exchange carrier, in this case, VITELCO. In 2011, the FCC eliminated the "identical support rule" and started phasing out CETC support over a five year period in order to provide some of the funding for the new Connect America Fund ("CAF") and Mobility Fund. Starting January 1, 2012, monthly support was based on one twelfth of the total support the CETC received in 2011. This amount is called "baseline support." Starting July 1, 2012, support was based on 80% of the monthly baseline support. From July 1, 2013 to June 30, 2014, ETC support dropped to 60% of the monthly baseline support. The FCC initially planned to reduce ETC support by another 20% each year until the phase-out is completed in 2017. However, it has decided to maintain the 60% level until the competitive bidding process for awarding Mobility Phase II funds is in place. At this time, the FCC is reconsidering Mobility Phase II and may decide to eliminate it in favor of other alternatives. Even if the FCC continues the original plan, it may eliminate support completely for those wireless ETCs whose high-cost USF is less than 1% of total wireless revenues.[2] Although support beyond 2016 is uncertain, for purposes of this review we assume it will remain at current levels through 2017.

Choice received a total of $67,260 in high-cost support during calendar year 2015. In view of the limited amount of USF Choice could receive in the future, we limited our review to ensuring that Choice complied with the checklist of reporting items required by the FCC and to a high-level review of Choice's existing five-year plan.

ETC Requirements

On March 17, 2005, the FCC released the *ETC Designation Order*, adopting specific requirements for ETCs granted designation pursuant to Section 214(e)(6) of the Federal Act.[3] These requirements included ongoing reporting obligations. Although these reporting requirements were applicable to federally designated ETCs, the FCC urged the states to adopt the same rules for the ETCs they designated. Accordingly, the PSC included these requirements in the Order granting Choice's ETC designation. In its November 18, 2011, *USF Transformation Order*, the FCC extended the reporting requirements to all ETCs,

[2] *In the Matter of Connect America Fund, et. al.*, WC Docket No. 10-90, et. al., Report and Order, Declaratory Ruling, Memorandum Opinion and Order, Seventh Order on Reconsideration, and Further Notice of Proposed Rulemaking, FCC 14-54 (released June 10, 2014)("*CAF Omnibus Order*"), para. 250.

[3] *In the Matter of Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Report and Order, FCC 05-46 (released March 17, 2005) (the "*ETC Designation Order*").

including those designated by the states.[4] Although some of the reporting requirements in Section 54.313 of the federal rules apply to all recipients of USF, each of the various High-Cost USF programs also has its own set of requirements. Although the FCC requires most ETCs to break out the reported data between voice and broadband services, that requirement does not apply to CETCs whose support is being phased out.[5] The following are the FCC requirements that apply to Choice:

(1) Detailed information on any outage in the prior calendar year of at least 30 minutes in duration for each service area in which an eligible telecommunications carrier is designated for any facilities it owns, operates, leases, or otherwise utilizes that potentially affect
  (i) At least ten percent of the end users served in a designated service area; or
  (ii) A 911 special facility.
  (iii) Specifically, the eligible telecommunications carrier's annual report must include information detailing:
    (A) The date and time of onset of the outage;
    (B) A brief description of the outage and its resolution;
    (C) The particular services affected;
    (D) The geographic areas affected by the outage;
    (E) Steps taken to prevent a similar situation in the future; and
    (F) The number of customers affected.
(2) The number of requests for service from potential customers within the recipient's service areas that were unfulfilled during the prior calendar year. The carrier shall also detail how it attempted to provide service to those potential customers;
(3) The number of complaints per 1,000 connections in the prior calendar year;
(4) Certification that it is complying with applicable service quality standards and consumer protection rules;
(5) Certification that the carrier is able to function in emergency situations;
(6) The company's price offerings in a format as specified by the Wireline Competition Bureau;
(7) The recipient's holding company, operating companies, affiliates, and any branding (a "dba," or "doing-business-as company" or brand designation), as well as universal service identifiers for each such entity;

In order to facilitate the oversight and certification requirements in Section 54.313, the FCC required all ETCs to file Form 481, Carrier Annual Reporting Data Collection Form, which serves as a vehicle for standardized reporting. A copy of this form was filed with the PSC for use in the annual "Use" certification.

Form 481 was intended to supplement state requirements which could require more detail. It is a PSC requirement that Choice must submit a progress report on its five-year

[4] *In the Matter of Connect America Fund, et. al.*, WC Docket No. 10-90, et. al., Report and Order and Further Notice of Proposed Rulemaking, FCC 11-161 (released November 18, 2011)("*USF Transformation Order*"), para. 573.

[5] Ibid., para. 583. However, CETCs whose support is being phased out remain obligated to offer voice services throughout their service area and remain obligated to offer voice Lifeline services.

service quality improvement plan, including information detailing its progress towards meeting its plan targets.

Analysis of Choice's Submission

On June 28, 2016, Choice filed a copy of FCC Form 481, which covers most of the checklist items in Section 54.313 in compliance with FCC rules. On August 5, 2016, Choice filed an update to the five-year plan originally submitted with its ETC application.

Even though USF support has been greatly reduced, Choice continued to build wireless facilities substantially in conformity to the five-year plan commitments made when Choice was granted its ETC designation. The Company continues to add new sites and increase capacity. Since USF support is a small fraction of the total construction program, we believe the funds were used as intended during 2015.

At this time, Choice plans to continue adding sites and capacity for at least the next four years. However, Choice's parent company, Atlantic Tele-Network ("ATN") recently acquired VITELCO including its wireless operations, Vitelcom Cellular. ATN has not yet decided if, or how, Choice and Vitelcom Cellular would be consolidated. If the two operations are consolidated, Choice's ETC designation may be lost. According to the FCC, "transfer of control of licenses and other authorizations from an entity already designated as an ETC to another entity that has not been designated as an ETC is insufficient for the transferee itself to assume the ETC status of the acquired ETC."[6] Even if Choice's ETC designation was not lost, ATN may decide to change Choice's approach to the USVI market and could alter its construction plans accordingly. Despite this uncertainty, if Choice will receive phased-down USF support in 2017, we believe it will be used for the purposes intended.

Choice reported that it had no reportable service outages or unfulfilled requests for service in calendar year 2015. It also reported that there were no customer complaints. In the absence of evidence to the contrary, we accept these assertions.

Choice indicated that it was in compliance with all service quality standards and consumer protection requirements including those in the CTIA Consumer Code. Choice also certified that it would remain functional in emergencies. We accept Choice's certifications.

Choice provided the required information regarding pricing of services, corporate structure and affiliates.

Choice provided the number of Lifeline subscribers for whom it received support. All ETCs are required to offer a Lifeline program and to perform outreach to ensure that potential customers know about the program. Choice reported that it had 1,832 Lifeline subscribers as of December, 2015. This was an increase from 2014 when it reported 1,770 subscribers. Choice's Lifeline service includes 300 minutes of nationwide calling, unlimited texting and 100 mbps of data each month. In addition, it includes a free phone, voicemail, 3-

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[6] See FCC Public Notice in Docket Nos. 09-197 and 11-42, released July 24, 2014, DA 14-1052

caller ID, directory assistance and call forwarding. Choice has been an active participant in the PSC's Lifeline outreach.

In view of the above, we recommend that Choice's request for annual "Use" certification be GRANTED. A draft letter to the FCC and USAC is attached.

Please call us if you have any questions about this report.
Cordially,

Jamshed K. Madan

Cc: Walter Schweikert